

# City Council Minutes

## June 10, 2002

The Council of the City of Milton-Freewater met in regular session on Monday, June 10, 2002 at 7:15 p.m. in the council chambers of City Hall.

The following members were present: Councilors Saager, Lyon, Richards, Kelley and Stewart. Staff members present were City Manager Delphine Palmer, Assistant City Manager Linda Hall, Finance Director Dave Richmond, Police Chief Mike Gallaher, Public Works Superintendent Howard Moss, Grant Writer Mike Watkins and City Planner Gina Hartzheim. Absent was Mayor Lewis Key.

Citizens present were Keith Woods, Don Wiggins, Curtis Walters, Colleen Reed, Carolyn Barek, Leanne Burris, Floyd Lewis, Ray Partin, Jerry Partin, Judy Partin, Pat Thomson, Sam LeFore, Roger Cosner, Carol Poppenga, Carl Griffith, John Short and Ellen Short.

Representing the press were Jeff Durham of the Blue Mountain Pioneer and Jennifer Hemmingsen of the East Oregonian.

### Consent Calendar Items:

Councilor Kelley moved to approve the consent calendar after correcting the attendance of Councilor Richards in the regular session. Councilor Richards seconded and the motion was passed unanimously.

### PUBLIC HEARING: Community Development Block Grant for the City Hall Elevator.

Council President Herb Saager opened and summarized the rules for public hearing. No Ex Parte contact was declared.

Council President Herb Saager asked if notice of the hearing had been published according to law. Assistant City Manager Linda Hall stated that this had been done. President Saager asked if there had been any written comments. Ms. Hall replied that none had been received.

President Saager invited audience members to speak or ask questions.

Keith Woods, 503 NW 8<sup>th</sup> Ave. #25, questioned the cost of \$750,000.00 for an elevator. Grant Writer Mike Watkins clarified this question by stating the \$750,000.00 was the maximum monies an entity could apply for, but that the City of Milton-Freewater was asking for \$150,000.00 plus our match for the elevator.

No other comments were heard.

President Saager closed the hearing.

No action from council was necessary at this time.

### PUBLIC HEARING/ORDINANCE #907 Annexing Property Located South of Eastside Road.

Council President Herb Saager opened and summarized the rules for public hearing. No Ex Parte contact was declared.

Council President Herb Saager asked if notice of hearing had been published according to law. Assistant City Manager Linda Hall stated that this had been done. President Saager asked if there had been any written comments. Ms. Hall replied that a letter dated June 6, 2002 from the Umatilla County Department of Resource Services and Development. The letter is neutral in position while questioning the development of

"islands" in our urban growth area. Also received was an undated letter from Sam LeFore in favor of the annexation.

City Planner Gina Hartzheim reported that this issue requests the annexation of fourteen (14) acres located South Eastside Road to North of Elzora Street. Ms.

Hartzheim then gave the staff report as follows:

SITE DESCRIPTION: The property is located adjacent to Elzora Street and south of Eastside Road. It consists of approximately 14 acres.

#### BACKGROUND

A request for annexation was received by applicant in May by the owner of the property.

#### APPLICABLE STATE LAW PROVISIONS

ORS 222.120(1), (3) and (4)(b)

ORS 222.125

#### COMPREHENSIVE PLAN PROVISIONS

COMPREHENSIVE PLAN GOAL 3

COMPREHENSIVE PLAN GOAL 11

COMPREHENSIVE PLAN GOAL 14/ANNEXATION POLICY

#### JOINT MANAGEMENT AGREEMENT PROVISIONS

IV. REFERRED APPLICATION/SITUATION

#### STATE LAW APPLICATIONS

**"ORS 222.120 - PROCEDURE WITHOUT ELECTION BY CITY ELECTORS; HEARING; ORDINANCE SUBJECT TO REFERENDUM.**

(1) Except when expressly required to do so by the city charter the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of

the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city and shall cause notice of the hearing to be posted in four public places in the city for a like period.

(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:

(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170 prior to the public hearing held under subsection (2) of this section;

FINDINGS: The city charter does not require the submission of annexation proposals to the voters of the city. A date was scheduled for public hearing on the annexation proposal, and notice of the hearing was published once each week for two successive weeks in the Union Bulletin, and posted in four public places in the city for the same period of time.

## ORS 222.125 - ANNEXATION BY CONSENT OF ALL OWNERS OF LAND AND MAJORITY OF ELECTORS; PROCLAMATION OF ANNEXATION.

The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

FINDINGS: Sam LeFore of Sam LeFore Fruit Farms, the sole owner of the property, has consented in writing to the annexation. The property is presently uninhabited.

### COMPREHENSIVE PLAN GOAL APPLICABLE PROVISIONS

#### COMPREHENSIVE PLAN GOAL 3 - AGRICULTURAL LANDS

##### "EXCEPTION TO STATEWIDE GOAL 3 - AGRICULTURE:

The City of Milton-Freewater has included within its urban growth boundary land suitable for agricultural use. The present City limits are completely surrounded by land presently in agricultural use or suitable for agricultural use.

"The City has determined through population projections (included within this Comprehensive Plan) that land included within the urban growth boundary will be needed for various urban land uses as the city grows and expands. The City of Milton-Freewater chose to protect orchard lands to the north of the City while including "dry land" wheat acreages within the urban growth boundary. Several small isolated orchards are also designated for future urban development because of present urban encroachment and access to public utilities.

"There does not exist sufficient land for urban expansion around Milton-Freewater that is also not suitable and presently utilized for agricultural purposes. The small amounts of wheat land appropriated for urban use will have little, if any, detrimental long term environmental, economic, social or energy consequences to the locality, region or state. Future urban uses of wheat land within the urban growth boundary will be compatible with wheat growing activities on wheat land adjacent to, and

outside of, the urban growth boundary.

"POLICIES:

1. Protect agricultural lands in the Milton-Freewater area by providing for concentrated urban development within the UGB.
2. No further extension of public services and facilities shall be extended beyond the urban growth boundary."

FINDINGS: The exception taken by the City to State Goal 3, which exception has been acknowledged by the State, explains the fact that agricultural land is included within the urban growth boundary and will be needed for urban expansion. That exception is still valid and is adopted herein. The subject property is located within the urban growth boundary, and is therefore available for expansion. The request for annexation will not result in extension of public services and facilities beyond the urban growth boundary.

## **COMPREHENSIVE PLAN GOAL 11 - PUBLIC FACILITIES**

The City of Milton-Freewater will continue to provide and maintain urban services (water, sewer, storm drainage, services and transportation infrastructure) to residential, commercial and industrial lands within the City's Urban Growth Area prior to or concurrent with development and annexation.

The City will require urban development to be served by urban services.

The City will prioritize development of land serviced by utilities and require the extension of water, sewer and storm drainage facilities for all urban level development within the UGB.

Public facilities shall be extended to urbanizable land only upon annexation or upon execution of agreements for annexation at a certain date.

Property in the urbanizable area shall be annexed to the City only when the property is contiguous to the City limits and only when public facilities as required by the Land Development Code are provided.

County Exclusive Farm Use designation shall continue to apply to lands in the urbanizable area which currently have that designation. Upon annexation, these lands shall change to the plan designation and land use zone specified by the City Comprehensive Plan and implementing codes.

FINDINGS: Sewer and water utilities are in close proximity to the subject property based on the fact that there are numerous homes in the area. User charges and system development charges have been set to help support and maintain the various systems, and will be required to be paid prior to the development of the property. The subject property is contiguous to the City limits. The developer of the subject property will be required to extend public facilities to the property. There is no request for zone change of the subject property other than a conversion from County zoning to City R-2 zoning. In addition, paved streets built to City standards will be required as a condition of any development.

## **COMPREHENSIVE PLAN GOAL 14 - URBANIZATION**

### **"ANNEXATION POLICY**

"Land within the City of Milton-Freewater urban growth boundary (UGB) will be eligible over time for annexation into the corporate limits of Milton-Freewater. Land outside the UGB will not be eligible to annex into the City limits. . .

"Property requested for annexation to the city must be contiguous with (adjacent to) the existing corporate limits. Streets, sewer mains and water mains must be extended, at the developer's cost, to service residences and businesses within the annexing property at the time of annexation (unless proper agreements and bonds are approved by the City for later improvements).

"The City will annex property only if the capacities of the City sewer and water systems are adequate to handle the added demand. The City will not annex any property whose owner does not wish to be annexed unless annexation is necessary as part of the development of the general location or neighborhood.

"The City will not refuse to annex property contiguous with the City limits if the City sewer and water system are capable of handling the additional demand and if the annexing property agrees to construct required public improvements to City standards."

FINDINGS: The subject property is located within the urban growth boundary, contiguous to the City limits. A public paved street, sewer and water utilities, all built to City standards, would be extended at the developer's cost to serve any development of the property. The City's water and sewer systems are sufficient and capable of handling the added demand.

## "URBAN GROWTH BOUNDARY

"Future development for Milton-Freewater will be located within the City limits and to the east, west and south of the present City limits and within a growth limit line called the Urban Growth Boundary (UGB). Urban development within this line will occur in an orderly planned fashion. Property will be required to annex to the City and extend sewer and water mains for sewer and water needs.

"Orchard land to the north of the city will be protected from further urban encroachment. Some agricultural land will be utilized for urban development as the City grows. This is inevitable since the city is surrounded by land presently in crop production. However, urban development will be centrally located within the urban growth boundary of the City of Milton-Freewater due to adoption and implementation of statewide planning goals for urbanization and agricultural lands in the county comprehensive plan. Thus urban and suburban sprawl will be replaced by an urban hub surrounded by agricultural and rural residential land uses.

"Land within the Urban Growth Boundary shall be available for urban use. The change of the land use from rural to urban shall be possible when the following services are available: Sewer, water, paved public street and adequate fire and police protection to meet minimum City and State standards. The first areas allowed for urbanization shall be those which first receive development of a major subdivision, PUD or commercial business (excluding farming) in which public water and sewer service can be reasonably extended for further development.

"1. Conversion of urbanizable land to urban use shall be based on:

- a. The ability to provide orderly, economic provision for public facilities and services;
- b. LCDC statewide goals;
- c. Availability of sufficient land for the various land uses;
- d. Encouragement of development within urban areas before conversion of urbanizable area."

FINDINGS: The subject property is located just north of the City limits. It is within the Urban Growth Boundary and therefore is urbanizable. All of the above services are available to serve the subject property in an orderly, economic fashion. Public streets will be required to be constructed to serve any development. No other land is available within the City limits for potential development of housing subdivisions.

"7. Land in the Urban Growth Boundary shall be allowed for urbanization and growth in any two of three separate identifiable major segments of rural land in the Urban Growth Boundary. . . .

"The first areas allowed for urbanization shall be those which first receive development of a major subdivision, planned unit development or commercial business (excluding farming) and in which public water and sewer services can be reasonably extended for further development.

FINDINGS: Two of the three separate identifiable segments of land have been the subject of prior developments, so the third segment will not be allowed for development until at least 50% of the available land has been developed in the two segments. The subject property is not located in the third segment (all land east of the Walla Walla River). The size of the subject property would easily accommodate a subdivision or a planned unit development on the property. As stated previously, water and sewer services can be readily extended to the property.

"8. Protect the unique orchard region north of the City from urban expansion."

FINDINGS: The Urban Growth Boundary was created so as to protect the orchards from urban expansion. The UGB effectively precludes urban expansion any farther north than the limits of the boundary.

#### JOINT MANAGEMENT AGREEMENT APPLICATIONS

#### **IV. REFERRED APPLICATION/SITUATION**

"U. The city shall refer all annexation proposals submitted to the UGA to the County for review and comment at least ten (10) days prior to the first public hearing on the annexation. The city will allow additional County review and comment [if] changes [are] to be made in the annexation proposal following initial or subsequent hearings.

FINDINGS: Notice was provided to the County on May 29, 2002, more than ten days prior to the date scheduled for hearing on the annexation request.

#### **GENERAL COMMENT**

The request for annexation appears to have satisfied state law as well as the City's Comprehensive Plan goals. The annexation would allow City water and sewer to serve the property, which would be of benefit for any urban use of the property.

#### STAFF RECOMMENDATION

Staff recommends annexing the subject property to the City.

President Saager then invited audience members to speak or ask questions.

President Saager invited the applicant to speak.

Sam LeFore read his letter to the City Planning Commission as follows:

I am submitting this letter to explain why I am discontinuing use of the land just off of Rose Street in Milton-Freewater as farmland.

It is more feasible, environmentally, to put in dwellings. Farming near and around people and their homes is a liability for a farmer. The current orchard is in close proximity to several residents and their pets and yards. This is an ever-present concern.

Also, one side of this land borders the Walla Walla River. This brings into consideration the Endangered Species Act, which has long been established but is just now being strictly enforced. This act limits water rights and actually takes back some of the farmer's water and gives it back to the endangered fish. This makes water a scarce and valuable resource. The entity, which enforces the Endangered Species Act, has not been totally satisfied yet. We in the agriculture business do not know how much we will need to give to satisfy them and the resulting consequences we will have to deal with when we have less water-possibly not enough to farm with. The Clean Water Act, when enforced in the near future, will not allow any possible contamination of a waterway. Sprays used in agriculture will not be allowed within several hundred feet of the river. This would require some of the trees to be removed and a significant part of the land to remain bare in order to comply. Careful monitoring by government agencies will not allow farming to take place within close proximity of the river. These government agencies are being watched by environmentalists and are enforcing the law to the letter. Farming will no longer be an option economically.

The size and shape of the tract is presently difficult to farm. If more space is lost due to regulations, it becomes necessary to vacate it. The Walla Walla River is on the east side of the property and is a large portion of the perimeter. In agriculture today, high efficiency and maximum land use is imperative. Maximum efficiency will not be possible after all the laws are enforced and new compliance standards met.

So I am in favor of using the land in a different way. The area surrounding this parcel



of land is residential. It would seem logical and beneficial to those around this area, that it be zoned and developed for use other than agriculture.

President Saager invited those in favor of the amendment to come forward to speak. None came forward.

President Saager then invited those in opposition of the amendment to come forward to speak.

Floyd Lewis, 522 Rose Street, which is about two houses from the property at issue, spoke. Mr. Lewis' concern would be the amount of increased traffic and the street/road accommodations make it hazardous. Mr. Lewis felt there would be an increase of 400 to 500 persons living on the proposed land. With the Walla Walla River on one side of the proposed land, the railroad on the other side, and a highway land locking the parcel, there is only three (3) possible accesses. Rose Street, a 20ft-wide blacktop surface, Miller Street, which would have to be extended through the property, and Elzora Street, which would be a viable access to the proposed property, are the three (3) accesses available. Mr. Lewis feels the accesses, as they exist today, do not adequately accommodate the transportation infrastructure. Mr. Lewis would like something in this agreement to assure the residents living on Rose Street, that their street would not become a thoroughfare.

Gerald Simon, 420 Elzora, spoke next. Mr. Simon said he had all the concerns that Mr. Floyd Lewis had. Mr. Simon stated that Elzora Street could not accommodate increased traffic.

President Saager asked if there were any rebuttal to those who spoke in opposition.

Brad Humbert, 1813 Oak Street, asked if the three (3) streets in question would have to be brought up to city code in the event that any or all of these streets were used as access to the proposed land. President Saager said he felt this would be a decision for the Planning Commission. Mr. Humbert further stated that this would be addressed at a later time and not during the annexation process.

Floyd Lewis rebutted stating that if the annexation passed, residents on the three (3) streets in question would be forced to defend against a condemnation proceeding.

President Saager asked if Council members had any questions.

Councilor Dick Stewart asked Sam LeFore what he was going to do with his water right. Sam LeFore responded saying he was going to transfer the water right to another parcel of land.

Councilor Orrin Lyon asked Sam LeFore how wide the area along the river was. Sam LeFore said the area was not land, but river instead, that the entire area was fourteen (14) acres, but the actual land acreage was only about eight (8) acres. The

other six (6) acres is in the river.

Councilor Stewart asked what the two of three separate identifiable segments were. City Planner Gina Hartzheim said any land located south of the city limits and any land west of the Walla Walla River. Ms. Hartzheim further said the third segment was any land east of the Walla Walla River.

Councilor Lyon asked if we could find out more information about access to the property. Councilor Kelley answered saying it was her understanding that council is not concerned with access in the annexation process. That there will be many proceedings after this to gather input from citizens and professionals to determine the best method of development. Councilor Lyon then asked how to accommodate the landowner on Rose Street tonight. City Manager Delphine Palmer said that tonight was just the issue of annexation and not the issue of access. The issue of access would be discussed at the time of development. Councilor Richards said annexation would include the issues of access, but Ms. Palmer said that City government was designed to have hearings to address specific issues at specific meetings and times. Assistant City Manager Linda Hall reminded the council that annexation was not the first step in this process, but instead the acquisition into the urban growth boundary was the first step. Councilor Richards said she felt the concerns were the impact the annexation would incur. President Saager said the opportunity to oppose any prescribed access would come at a later time.

Councilor Stewart asked when the land was zoned R-2 and City Planner Gina Hartzheim said she thought it was under the comprehension plan designed approximately 1987.

Floyd Lewis said that as a portion of Ms. Hartzheim's report, that the transportation infrastructure was a part of the annexation issue and that access is an appropriate discussion at this time. Ms. Hartzheim answered stating that the City of Milton-Freewater will continue to provide and maintain urban services (water, sewer, storm drainage, services and transportation infrastructure) to residential, commercial and industrial lands within the City's Urban Growth Area prior to or concurrent with development and annexation." Ms. Hartzheim said these do not have to be in place prior to an annexation approval.

President Saager closed the hearing.

Councilor Kelley motioned to adopt the Findings of Fact for the annexation Ordinance 907 as presented. Councilor Saager seconded the motion. The motion was passed with a 3 to 2 margin with Councilors Saager, Lyon and Kelley voting yea and Councilors Stewart and Richards voting nay.

Councilor Kelley moved Ordinance No. 907 be introduced by title only and full reading waived. Councilor Saager seconded and a roll call vote was taken: Councilor Saager, yea, Councilor Lyon, yea, Councilor Stewart, nay, Councilor Richards, nay and

Councilor Kelley yea. The Assistant City Manager then read the ordinance in its entirety. Councilor Kelley moved to adopt Ordinance No. 907 by title only and full reading waived. Councilor Saager seconded and the motion carried unanimously. The City Manager read the ordinance by title. Councilor Kelley moved to adopt Ordinance No. 907, Councilor Saager seconded and a roll call vote was taken: Councilor Saager, yea, Councilor Lyon, yea, Councilor Stewart, yea, Councilor Richards, nay, and Councilor Kelley, yea.

Resolution No. 1886. Transferring Funds Due to Unforeseen Expenditures. City Manager Delphine Palmer asked council if in the future this issue could be addressed as "unanticipated expenditures which will be detailed below" reasoning that the presentation currently in use is ambiguous and citizens should be aware that the City prepares its budget for an entire year and there are expenditures arising within that year that are unanticipated. Council concurred this was a good idea. Finance Director Dave Richmond then reported the specific funds in need of fund transfers that were determined after a budget review.

Councilor Stewart asked if the vehicle replacement fund was the fire truck expense. Mr. Richmond concurred.

Councilor Kelley moved to adopt Resolution No. 1886 transferring funds due to unforeseen expenditures. Councilor Lyon seconded the motion and was passed unanimously.

Resolution No. 1887. Amending Utility Deposit Polity. Finance Director Dave Richmond stated the changes would be an increase in deposit from \$50.00 to \$75.00, eliminate the 3% interest paid on deposits, only pay back deposits on accounts that have not been late for twelve consecutive months and if the customer is shutoff for nonpayment, another \$75.00 deposit or double the highest bill in the past year will be required. He further stated he was now recommending deposits be returned on accounts that had one late payment or less within twelve (12) months.

City Manager Delphine Palmer revealed to council and citizens the games that some of our utility customers are playing. An example: a customer is late, then a friend or relative comes in and says he/she is living there now and they turn on the power, then they leave and in the process the utility department is losing revenues.

Councilor Saager said he didn't like penalizing customers for being late only once, but felt the policy change was good.

Brad Humbert approached council saying he felt the proposal was good, but to have more enforcement he suggested property liens. Councilor Saager asked Mr. Richmond to research the prospect of liens.

Councilor Kelley motioned to adopt Resolution No. 1887 Amending Utility Deposit Policy amending deposit returns with one late payment instead of no late payments.

Councilor Lyon seconded the motion and the motion passed unanimously.

Resolution No. 1888. Authorizing Signature to Demolition Agreement for 802 Lamb Street property. Public Works Superintendent Howard Moss reported to council and citizens saying the property north of Brinker Brothers at 802 Lamb Street is owned currently by Baker Boyer Bank. This property has been a nuisance with both utilities and abatements. There would be no budget impact, other than loss of landfill fees. The City will not be doing any of the hauling.

Councilor Stewart asked if this would set precedence. Mr. Moss said that perhaps it would, but the City had accommodated the disposal of a decaying interior of a cold storage off NW 4<sup>th</sup> Avenue.

Councilor Richards said she feels its an exceptional project and City Manager Delphine Palmer complimented Mr. Moss for taking the initiative to accomplish this task.

Councilor Saager asked that they ensure that any squatters taking shelter within the structures will be removed before any demolition takes place.

Councilor Stewart asked about the tonnage at the landfill. Mr. Moss said the daily tonnage would be monitored closely.

Councilor Richards asked when the project would take place. Mr. Moss thought that hopefully the contractors would take care of this in a couple of weeks.

Councilor Kelley moved to adopt Resolution No. 1888 authorizing signature to demolition agreement for 802 Lamb Street property. Councilor Richards seconded the motion. After the following discussion the motion passed unanimously.

Roger Cosner, 910 NE 1<sup>st</sup>, said he was in favor of the demolition of the structures located at 802 Lamb Street, but he opposed free dumping on three issues. One, the City's policy adopted approximately five (5) years ago which would not allow any contractors to haul any materials to the dump, that the City would haul instead. Two, contracts are issued in a manner to exclude small contractors. Small contractors could not comply with the time frames outlined. Three, the landfill is only open three days and if hauling is done daily, this will be a violation.

Public Works Superintendent Howard Moss addressed the issues presented by Mr. Cosner. Mr. Moss stated he was the author of the agreement at the landfill and that the Resolution at that time states that the Superintendent of Public Works has authority to handle special and unique waste. As for time restraints for contractors, Mr. Moss said that Mr. Cosner was referring to the Union 76 demolition and the time restraints were due to budget year timing. Mr. Moss further stated that an attendant would be at the landfill monitoring tonnage, but this was not a concern as any concrete structures will go elsewhere. Certification is noted as asbestos and lead-

base paint free as well.

Brad Humbert asked why Baker Boyer Bank did not put this out for bid to local contractors. Mr. Moss said he met with three contractors and assumed that Baker Boyer did put this out to bid.

Resolution No. 1889. Amending Employee Pay Plan for Clerical Unit Positions. City Manager Delphine Palmer addressed the council stating she and Assistant City Manager Linda Hall had worked on this project almost since the beginning of her employment here. It has been known that several positions within the Clerical Unit did not match pay ranges. Ms. Palmer said that out of the fourteen (14) members of this unit, only six (6) titles were changed and only five (5) salary ranges were changed. Ms. Palmer also made it clear this was not a raise, but that this was a salary adjustment based on job analysis with cities similar to our own. The budget impact would be around \$13,460.00, but Ms. Hall stated we owe our customers the best and that it is her desire to retain the best employees to serve our customers.

Councilor Richards said she appreciated the efforts of Ms. Palmer and Ms. Hall as she knew how laborious job analysis' can be and she felt good about the proposal.

Councilor Richards motioned to adopt Resolution No. 1889 amending the employee pay plan for the clerical unit. Councilor Kelley seconded the motion and was carried unanimously.

Bid Award: Pavement Overlay for portions of Hodgen Road, NW 11<sup>th</sup> and Dahlia Street. Public Works Superintendent Howard Moss addressed council stating that usually in June a contract award is made for upcoming street maintenance. Two bids were submitted from Humbert Asphalt, Inc. in the amount of \$36,900.00 and Transtate Asphalt, Inc. in the amount of \$40,900.00. Both bids had an addition of \$11,400.00 for 300 tons of Class "C" ACP. The recommendation is to award Contract 167 to the low bidder, Humbert Asphalt, Inc. in the amount of \$36,900.00 plus \$11,400 for 300 tons of Class "C" ACP. Mr. Moss stated there were sufficient funds in street maintenance.

President Saager asked what the total amount for Transtate Asphalt would have been. Mr. Moss said \$52,300.00 where the total for Humbert Asphalt was \$48,300.00.

Councilor Kelley motioned to award the contract to Humbert Asphalt Inc. for pavement overlay on portions of Hodgen Road, NW 11<sup>th</sup> and Dahlia Streets in the amount of \$36,900.00 plus \$11,400 for 300 tons of Class C ACP. Councilor Richards seconded the motion and was passed unanimously.

Resolution No. 1890. Weed Abatement. Public Works Superintendent Howard Moss reported to citizens and council stating that adjacent property owners responsible for public right-of-way is an arguable issue. The state statute that Mr. Richard McNulty used in argument is a good and valid statute and if the City did not have a code,

citizens would have the option to use this statute. However, Public Works has re-evaluated all violations and has omitted all public right-of-way properties and those properties that have been cleared of weeds and debris. Of the original 277 violations, only 32 remain excluding public right-of-way properties.

Carl Griffith, 243 SE 17<sup>th</sup>, encouraged the City to aggressively act with weed abatements as the market value of his home has decreased by \$20,000.00 over the past two years due to the property across the street from him.

Councilor Kelley moved to adopt Resolution No. 1890 for weed abatements. Councilor Richards seconded the motion and was passed unanimously.

#### MANAGER'S REPORT

City Manager Delphine Palmer reported to citizens and council that we received the "Certificate of Achievement for Excellence in Financial Reporting" and that this is the 11<sup>th</sup> consecutive year the City has received this budget award. Ms. Palmer further explained that for us to receive this award, it is truly an honor as they take reports from all cities and then issues the award based on excellence.

Ms. Palmer recognized Grant Writer Mike Watkins for his effort in getting new grants. She further stated a grant for 50% of the cost for bullet-proof vests for our police officers was attained this week. Ms. Palmer also said the new vests would be a lighter weight. Ms. Palmer further said that new vests were a must as vests were designed to accommodate change in weaponry. Mr. Watkins said that Police Sergeant Darrin Richman also worked diligently on this grant.

Ms. Palmer announced that State Representative Greg Smith would be here at 7:00pm tomorrow in the Rotary Room to address the public with questions about the state budget.

#### CITY COUNCIL ANNOUNCEMENTS:

Councilor Richards announced that the first annual Senior Prom will be held Saturday, June 29<sup>th</sup>, from 2:30pm to 5:00pm, at the Senior Center for seniors only. The event is sponsored by businesses and individuals, with the primary work done by the Youth Action Council, Janelle Woollen leader. This is a free event.

Councilor Richards wanted to compliment Police Chief Mike Gallaher for his demeanor with the press and the unfortunate public relations regarding the murder case.

Councilor Richards asked if there was an update with CIS firefighter insurance. City Manager Delphine Palmer said she would be speaking with Dave Campbell this week and would be able to give a better report in the next meeting.

There being no further business the meeting was adjourned at 8:55pm.

Lewis S. Key, Mayor

### **June 24, 2002**

The Council of the City of Milton-Freewater met in regular session on Monday, June 24, 2002 at 7:00 p.m. in the council chambers of City Hall.

The following members were present: Mayor Lewis Key, Councilors Saager, Lyon, Kelley and Stewart. Staff members present were City Manager Delphine Palmer, Assistant City Manager Linda Hall, Finance Director Dave Richmond, Police Chief Mike Gallaher, Public Works Superintendent Howard Moss and Electric Superintendent. Absent due to resignation was Councilor Debra Richards.

Citizens present were Bill Luisi, Steve Irving, Mardi Perry, Mary Clark, Merle Sherman and Dennis Rea.

Representing the press was Jeff Durham of the Blue Mountain Pioneer.

#### Consent Calendar Items:

Councilor Stewart moved to adopt the consent calendar containing the June 10, 2002 minutes. Councilor Lyon seconded and the motion was passed unanimously.

Mayor Key announced to the audience that this was the opportunity for citizens to approach the council with concerns not on the agenda.

Bill Luisi, 123 Elzora Street, stated his concerns regarding both rural and city fire departments. Mr. Luisi has been approached by both Rural and City fire personnel as to why practices are not held together. The City Fire Department had a "Burn to Learn" session and the Rural Fire Department was not invited. Also at our "Burn to Learn" session was an ambulance from Weston and not the Rural Ambulance. There is new personnel in both the Rural and City Fire Departments and Mr. Luisi feels both departments should train together monthly or at least every-other month. Another issue is the line-of-communication when the City is at a Rural Fire call. The City should ask for direction, and if that direction is to standby, then that's what the City should do. This applies in reverse as well.

Merle Sherman, 710 Pierce, stated that five years ago the City had a pigeon problem. Mr. Sherman said he had a contract with the Federal Wildlife Service and after six months, the City took the contract over. The charge is \$1,200.00 annually, which Mr. Sherman believed reasonable. Mr. Sherman explained that pigeons reproduce rapidly, two eggs every six weeks and he also stated there were several diseases passed to humans with one being deadly. Since the program began, the City of Pendleton, LaGrande, Echo, and Walla Walla have all hired the same agency. Mr. Sherman stated his desire to continue with the pigeon program.

City Manager, Delphine Palmer, addressed the pigeon issue stating that the funds used for this program no longer existed, but that if the problem persisted, the City would continue with a program to control pigeon populations. Mr. Sherman said that he thought it would probably cost more to introduce a new program later.

Mary Clark, 604 N. Main, reiterated Mr. Sherman's remarks and also said that the reason the City does not have a pigeon problem is because it has been controlled. Ms.

Clark also said that if Council needed more information of diseases spread through pigeon droppings, she would be more than happy to get that information to Council. City Manager, Delphine Palmer, said that if the Council felt differently, they could change the budget. The pigeon program was not budgeted for this year because the fund supporting the program will end in June, 2002.

Councilor Saager said he felt the program was a good program and would like to see it continued. He also stated he felt if the City did not stay on top of the situation, the situation would reverse itself.

Councilor Saager also answered to Bill Luisi's previous discussion regarding City and Rural fire districts training stating that there were training sessions in progress that will include both entities. Bill Luisi said he would pass the information along.

PUBLIC HEARING and RESOLUTION NO. 1891 State Revenue Sharing.

Mayor Lewis Key opened and summarized the rules for public hearing.

No Ex Parte contact was declared.

Mayor Lewis Key asked if notice of hearing had been published according to law.

Assistant City Manager Linda Hall stated that this had been done. Mayor Key asked if there had been any written comments. Ms. Hall replied that there were none.

Finance Director, Dave Richmond, stated this was the second of two required hearings in order to receive state revenue funds of \$37,000.00. The first hearing was May 2, 2002.

Mayor Lewis Key invited citizens to contribute to the hearing. None spoke.

Mayor Lewis Key declared the hearing to be closed.

Councilor Saager moved to adopt Resolution No. 1891. Councilor Kelley seconded the motion, which passed unanimously.

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PUBLIC HEARING and RESOLUTION NO. 1892 Adopting Fiscal Year 2003 Budget.

Mayor Lewis Key opened and summarized the rules for public hearing.

No Ex Parte contact was declared.

Mayor Lewis Key asked if notice of hearing had been published according to law.

Assistant City Manager Linda Hall stated that this had been done. Mayor Key asked if there had been any written comments. Ms. Hall replied that there were none.

Finance Director, Dave Richmond, stated the Budget Committee made a recommendation to approve the budget and to levy taxes at the rate of \$3.7499 per \$1,000.00 of assessed value and \$126,400 for the Bonded Debt. Mr. Richmond recommended to pass the budget.

Mayor Lewis Key invited citizens to contribute to the hearing. None spoke.

Mayor Lewis Key invited Council to ask questions. Councilor Dick Stewart asked about the increase of \$511,000.00 and where the shortfall would come from since there were no new housing starts or new taxes. He said that he could see \$100,000.00 would come from the Urban Renewal Agency, but where would the \$400,000.00 come from? Finance Director Dave Richman answered stating that part of the \$500,000.00 in question was Phase III of the Waste Water Treatment Plant. Public Works Superintendent Howard Moss said that the entire project budgeted this year was \$2.3 million dollars. Mr. Richmond then said that if you deduct \$2.3 million dollars from the \$500,000.00 that the budget is actually less this year. Councilor Stewart then stated that the Police Department was getting a new car for the School Resource



Officer (SRO) and he did not believe it was necessary for the SRO to have a new vehicle. Mr. Richmond explained that the Police Department would receive a new car, but that the SRO would use another vehicle, not the new vehicle. Police Chief Mike Gallaher said the vehicle was taken out of the SRO budget, but the officer himself uses another vehicle. Public Works Superintendent Howard Moss stated that the existing police cars are worn out and should have been taken out of service a long time ago. Mr. Moss said they would like to have purchased all three vehicles during this last budget year, but that was not possible, so the third vehicle is now budgeted for our next fiscal year. City Manager Delphine Palmer stated that the City is financially stable. Ms. Palmer further stated there were almost \$6 million in investments, monies set aside for contingencies and there are about \$2 million in grants for this years budget. Police Chief Mike Gallaher stated that two new cars replaced the old leased vehicles which had mileage limitations and that this third vehicle replaces one that the engine blew-up three to four months ago. Chief Gallaher stated the City was not adding vehicles, but instead replacing vehicles. Councilor Stewart then stated that the proposed FY 2003 General Fund has a contingency of \$125,000.00, the Electrical Fund has a contingency of \$296,000.00 and the Public Works has a contingency of \$829,000.00. He feels the General Fund contingency should be \$200,000.00. Finance Director Dave Richmond and Assistant City Manager Linda Hall discussed how this year's contingency fund would be carried forward. It was an undetermined amount, but there would be a substantial balance carried forward.

Mayor Lewis Key declared the hearing closed.

Councilor Kelley motioned to adopt the FY 2003 budget of \$24,627,667.00 and to levy taxes at the rate of \$3.7499 per \$1,000.00 of assessed value and \$126,400.00 for the Bonded Debt. Councilor Saager seconded the motion along with thanks for the tremendous efforts of City Manager Delphine Palmer, Assistant City Manager Linda Hall, Finance Director Dave Richmond, and all the Department Heads. The motion passed three to one with Councilors Saager, Lyon and Kelley voting yea, and Councilor Stewart voting nay.

**RESOLUTION NO. 1893 Amending Electric Rates.** Electric Superintendent Mike Charlo stated that as of October 1, 2002, Bonneville Power Association (BPA) will increase their rates by 11%. On October 1, 2001, BPA raised their rates 46%. Mr. Charlo showed a chart to Council revealing Residential Rate Comparisons of all municipals within the Oregon Municipal Electric Utilities and the City of Milton-Freewater was the second-lowest rate, second only Forest Grove. This is due to Grant County Power Surplus contracts, which have kept our rates low in comparison to other utilities that have had 40% to 50% increases. With the 11% increase in BPA rates and a 5% rate increase in our City Utility rate, Electric department reserves will only increase 4½%.

Councilor Saager asked if reserve funds would be increased. Mr. Charlo said there were two reserve funds, one for capital reserves and an operations and maintenance reserve fund. The operations and maintenance reserve fund is a small fund of about \$250,000.00 and the capital replacement reserve fund is about \$1.5 million dollars and is necessary in the event there would be a catastrophic event at one of our substations.

Councilor Saager asked if there is enough money in the reserves to support itself in

the event of ice-storms. Mr. Charlo stated that is what the reserves are for. Councilor Lyon asked if the City waited until October 1<sup>st</sup> versus July 1<sup>st</sup>, if the rate would have to be higher. Mr. Charlo stated that if the City waited until October 1<sup>st</sup> to increase electrical rates that they would have to be raised to a higher rate. Mr. Charlo further explained that in our budget, 1% equals about \$35,000.00 which translates at 5% to about \$175,000.00 and we need the extra revenue to operate whether we do it in October or July. This increase is only on energy charges. There will be no increase for horsepower or demand charges. Mayor Key asked if we were still using reserves. Mr. Charlo said that the previous year was bad due to low water levels in the reservoirs reducing surplus sales. Water levels right now have increased, so this year we're facing a better outlook.

Dennis Rea, 84224 Spofford Road, said he was a agriculturalist and used irrigation pumps. With commodity prices low and costs high, this is not a good time for a power increase.

Councilor Lyon asked if this increase was across the board and Mr. Charlo stated that all energy rates would increase.

Councilor Saager motioned to adopt Resolution No. 1893 to amend energy rates.

Councilor Kelley seconded the motion which passed unanimously.

RESOLUTION NO. 1894 Transferring Funds for Unanticipated expenditures. Public Works Superintendent Howard Moss said the budget was impacted due to requirements placed on the Waste Water Farm as well as establishing grasses and shrubs. Also, there was a run on repairs for field sewer lines.

Councilor Kelley motioned to adopt Resolution No. 1894, Transferring funds for unanticipated expenditures. Councilor Lyon seconded the motion, which passed unanimously.

#### **MANAGER'S REPORT**

City Manager Delphine Palmer said the Library has received \$25,000.00 from the Jeld-Wen Foundation who owns Amerititle and \$75,000.00 from the Northeast Oregon Alliance. They are getting close to their goal, but would like to go over to cover pledges which may not be honored.

Ms. Palmer reported she is putting together a contract between the City and Community Development Partnership for the new Economic Development Director to ensure the City gets what they want. She said she would have this draft at the next meeting.

Ms. Palmer announced there was a close call at City Hall in the offices. A surge protector was smoking and Fire Chief Faron Reynolds took care of it, but had it been at night it could have been disastrous. This was the cause of the Denny Building fire in Walla Walla, Washington. Because of this event, we have an unforeseen expenditure of approximately \$1,000.00 to purchase all new surge protectors.

Ms. Palmer further reported that agency mandates cost the City unforeseen dollars. Some examples of agency mandates are that Public Works has always had one person enter the vault. Now OSHA requires that one person enter the vault and another stands by for safety. To the citizen, however, it appears that the City has some employees just stand around. It is the same for truck drivers hauling chlorine. It used to be one person could drive the truck, but now OSHA requires that two persons be involved.

Ms. Palmer said that our Walking Trail grant was not approved. We did get approval from property owners, but some property was in probate. When we apply for another grant, the property should be free of probate and hopefully we will get approval.

Ms. Palmer said Police Chief Mike Gallaher had updated her about Resolution 1826 which banned parking on North Columbia. Passed on March 25, 2002, only five citations and zero accidents have been reported, so it seems this resolution has been successful.

Fire Chief Faron Reynolds approached Council in rebuttal of Bill Luisi's concerns. Chief Reynolds stated his primary responsibility was the safety and training of his personnel. Chief Reynolds reviewed his pre-fire plan with OSHA and explained that the City had ambulance service with a three to four minute response time and that also an Oregon licensed Emergency Medical Technician would be present. OSHA said this was considerably more than the requirement. For the last training session, "Burn to Learn", Chief Reynolds was unaware that anyone else wanted to participate, but participation in a live burn session required written evidence of prior training. Chief Reynolds is also unaware of any department responsible for training personnel of other departments, nor does Chief Reynolds believe it is within the scope of his responsibilities to recruit outside trainees. As far as communication during intense situations between multiple departments, this is an area that can always be improved upon.

Mayor Lewis Key requested Council Announcements. There were none.

There being no further business the meeting was adjourned to an Urban Renewal Agency session at 8:04 p.m.

Lewis S. Key, Mayor